

### **REMARKS**

Claims 1-41 are presented in the application. Applicants hereby affirm the election of Species 1 directed toward Figs. 2-6 and 10, and therefore acknowledge that claims 11, 12, and 14-16 are withdrawn. In addition, applicants submit that at least independent claims 1, 26, and 33 are generic. In view of the amendments and remarks presented herein, reconsideration and allowance of all claims are respectfully requested.

As an initial point, applicants submit that the claims amendments presented above are fully supported by the original specification. Independent claims 1, 26, and 33 are amended to more clearly describe the closure component in the non-collapsed and collapsed positions. Specifically, the claims now recite that the backing of the closure component, when in the non-collapsed position, has a generally conical shape with a center portion distally spaced from a periphery. In the collapsed position, the backing center portion is collapsed proximally toward the backing periphery to have a generally disc shape. Support for this claim language is found in the specification as originally filed at page 6, lines 13-25, page 9, lines 3-9, and Figs. 2-5. In addition, applicants note that claims 8 and 10 were amended to be consistent with the changes to claim 1, from which they ultimately depend. Finally, new claims 40 and 41 recite that the fibrous tissue engaging members and the backing are disposed on the same side, namely the exterior surface, of the closure component. Support for this claim language is found at page 6, lines 20-25, and Figs. 2-6. Accordingly, consideration and entry of these claim amendments are respectfully requested.

Turning to the Office action, the specification is objected to for informal errors. The amendments to the specification presented above address the errors identified by the Examiner as well as additional informalities found by the applicants. Consideration and entry of the amendments to the specification are respectfully solicited.

Claims 1-7, 13, and 24-39 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,964,782 ("Lafontaine"). Applicants traverse this ground of rejection.

Independent claim 1 specifies a closure device for closing an opening in a body cavity including an elongate delivery member and a closure component removably connected to the

delivery member. The closure component includes a collapsible backing movable between a non-collapsed position, in which the backing has a generally conical shape with a center portion of the backing distally spaced from a periphery of the backing, and a collapsed position, in which the backing center portion is collapsed proximally toward the backing periphery to have a generally disc shape. The closure component further includes a plurality of fibrous tissue engaging members disposed on the backing and oriented in a non-engaging orientation when traveling in a distal direction and in an engaging orientation when traveling in a proximal direction, so that the fibrous tissue engaging members entangle the backing when the backing is in the collapsed position.

Similarly, independent claim 26 specifies a method of closing an opening in a body including inserting a closure component having a collapsible pile backing distally through the opening closure. The pile backing initially has a non-collapsed position in which the backing has a generally conical shape with a center portion of the backing distally spaced from a periphery of the backing. The method also calls for collapsing the collapsible pile backing to a collapsed position in which the backing center portion is moved proximally toward the backing periphery to form a generally disc shape.

Also similar to claim 1, independent claim 33 specifies a closure device for closing an opening in a body cavity including an implantable closure component having a longitudinally collapsible backing movable between a non-collapsed position, in which the backing has a generally conical shape with a center portion of the backing distally spaced from a periphery of the backing, and a collapsed position, in which the backing center portion is collapsed proximally toward the backing periphery to have a generally disc shape.

Lafontaine fails to disclose or suggest a closure device or method including a closure component having a backing center portion movable between the non-collapsible and collapsible positions as specifically recited in independent claims 1, 26, and 33. More specifically, Lafontaine discloses an annular, elastic closure ring 344 that slides over the exterior of a foam core tip 328 (identified with reference numeral 338 in the drawings). Significantly, the closure ring 344 has a cylindrical shape when in the uncompressed position, which is different from the conical shape specified in the claims. The Examiner acknowledges that Lafontaine fails to disclose a conical shaped closure component when asserting an obviousness rejection against

claims 8-10, which is discussed in greater detail below. Accordingly, the anticipation rejections of claims 1, 26, and 33 should be withdrawn.

Claims 8-10 stand rejected under 35 U.S.C. §103(a) as obvious over Lafontaine in view of U.S. Patent No. 5,723,005 ("Harrick"). Inasmuch as this rejection is applicable to claims 1, 26, and 33 as amended, applicants traverse this ground of rejection.

Independent claims 1, 26, and 33 as amended recite a closure component including a backing that, in a non-collapsed position, has a generally cone shape with a central portion spaced distally from a peripheral portion. In the collapsed position, the central portion is moved proximally so that the backing has a disc shape. The cited prior art fails to teach or suggest a backing having the collapsed and non-collapsed positions specified in the claims.

Lafontaine, as noted above, does not disclose or suggest a cone-shape. In addition, the closure ring 344 of Lafontaine moves radially inwardly rather than in a proximal direction when collapsed. Herrick is cited for the disclosure of a flared section 40 that has a cone-shape when in an initial position. While the flared section 40 is collapsible, it collapses in a radial direction so that the center portion remains spaced from the periphery when collapsed. This is different from the collapsed position as specified in the claims, where the backing center portion moves distally toward the periphery when the backing is placed in the collapsed position.

The prior art must disclose at least a suggestion of an incentive for a claimed combination of elements in order to establish a *prima facie* case of obviousness. No such suggestion is apparent from either of the cited references and hence the obviousness rejection should be withdrawn. See *In re Sernaker*, 217 U.S.P.Q. 1 (Fed. Cir. 1983) and *Ex parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. 1985).

New dependent claims 40 and 41 further distinguish the cited prior art. These claims specify that the fibrous tissue engaging members and the backing are disposed on a same surface of the closure component (namely, the exterior surface of the backing - claim 41). Lafontaine, however, discloses fibrous tissue engaging members that are on an exterior surface of the closure ring 344 and a backing material on an interior surface of the closure ring 344. Accordingly, for at least this additional reason, claims 40 and 41 further distinguish the cited prior art.

**CONCLUSION**

It is submitted that the present application is in good and proper form for allowance. A favorable action on the part of the Examiner is respectfully solicited.

If, in the opinion of the Examiner a telephone conference would expedite prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,  
MILLER, MATTHIAS & HULL

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By:

A handwritten signature in dark ink, appearing to read "Brent E. Matthias", is written over a horizontal line.

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